

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

CITY OF COLUMBUS, <i>et al.</i> , <i>Plaintiffs,</i> v. DONALD J. TRUMP, <i>et al.</i> , <i>Defendants.</i>	Civil Action No. 1:18-cv-02364-DKC
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**JOINT MOTION FOR AGREED UPON SCHEDULING ORDER AND
ENLARGEMENT OF PAGE LIMITATIONS**

The parties, by undersigned counsel, hereby move the Court to enter a scheduling order and enlargement of page limitations agreed upon by the parties, with the deadlines and page limits proposed below. In support of this motion, the parties state the following:

Plaintiffs commenced this action on August 2, 2018, and filed an Amended Complaint on January 25, 2019. *See* ECF No. 44. Count I of the Amended Complaint—asserted against defendants the U.S. Department of Health and Human Services (“HHS”), Alex M. Azar, II, in his official capacity as Secretary of HHS, the Centers for Medicare and Medicaid Services (“CMS”), and Seema Verma, in her official capacity as Administrator of CMS (collectively, the “HHS Defendants”)—raised a number of challenges under the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706, to a Final Rule, 83 Fed. Reg. 16,930 (April 17, 2018) (the “2019 Rule”). Count II of the Amended Complaint—asserted against the HHS Defendants as well as defendant Donald J. Trump, in his official capacity as President of the United States of America—raised a claim under the Constitution’s Take Care Clause. Defendants moved to dismiss both Counts of the Amended Complaint. *See* ECF No. 52.

On April 10, 2020, the Court issued a Memorandum Opinion and Order, denying Defendants' motion with respect to Count I and granting Defendants' motion with respect to Count II. *See* ECF Nos. 102, 103. Accordingly, the only remaining issues in this case at this time are those asserted against the HHS Defendants under the APA in Count I. The parties have conferred and believe that the remaining issues can be decided on summary judgment based on an administrative record. Subject to this Court's approval, the parties have thus agreed upon the following briefing schedule. The parties also request that the Court increase the number of pages allotted for each brief, in light of the number of issues involved, as indicated below:

- Defendants will produce to Plaintiffs the administrative record pertaining to the 2019 Rule by June 17, 2020.
- Plaintiffs will move for summary judgment by August 13, 2020 (60 pages).
- Defendants will file a consolidated opposition to Plaintiffs' motion and their cross-motion for summary judgment by September 17, 2020 (60 pages).
- Any prospective amici will file their motions to participate with accompanying brief by October 1, 2020.
- Plaintiffs will file a consolidated reply in support of their motion and opposition to Defendants' motion by October 15, 2020 (40 pages).
- Defendants will file their reply in support of their motion by November 12, 2020 (40 pages).

In addition, pursuant to Fed. R. Civ. P. 12(a)(4)(3), Defendants' Answer is currently due April 24, 2020. However, because the remaining issues will be decided based upon an administrative record, and because assertions in the Amended Complaint relating solely to Count II are no longer at issue, the parties have conferred and agree that an Answer would play no material role in the resolution of this action and that, in the interest of judicial economy and the conservation of resources, the Answer may be waived. Defendants therefore respectfully request that the Court waive the obligation to file an Answer.

Dated: April 21, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned counsel certifies that on April 21, 2020, a true and accurate copy of the foregoing was electronically filed with the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record in this matter.

/s/ Kathryn L. Wyer

KATHRYN L. WYER